

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

ORDER

Plaintiff's counsel filed a motion for approval of attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$19,968.65. Attorney fees awarded under 42 U.S.C. § 406(b) may not exceed 25% of the total of the claimant's past-due benefits. Plaintiff previously has been awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, the amount of \$3,666.00. Defendant filed a response, stating that, under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

Plaintiff's counsel requests a fee of \$19,968.65. This amount is derived from subtracting the \$683.00 fee received under 42 U.S.C. § 406(a) from \$20,651.65 (25% of the past due benefits awarded in this case). The Court has reviewed the amount requested by counsel and finds it to be reasonable in light of the fee agreement and amount of work expended by counsel. The fee is in line with the results achieved, and there is no indication that counsel caused unnecessary delay or that "the benefits are large in comparison to the amount of time counsel spent on the case." *Gisbrecht*, 535 U.S. at 808.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$19,968.65. Plaintiff's counsel will refund to Plaintiff the smaller amount between this amount and any fee amount that previously was received under the EAJA.

Signed: June 2, 2021



Graham C. Mullen
United States District Judge

